



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

August 1, 1996

Mr. Mark C. Weisner  
Superintendent  
Blue Ridge Independent School District  
425 N. Church  
Blue Ridge, Texas 75424

OR96-1362

Dear Mr. Weisner:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 33551.

The Blue Ridge Independent School District ("BRISD") received a request for certain information comprising "a list of the parents that transferred their children out of Blue Ridge I.S.D. and enrolled them in other schools." You have submitted documents<sup>1</sup> for our review and you contend the requested information is excepted from required public disclosure under sections 552.114 and 552.026 of the Government Code.

Section 552.114(a) excepts student records from an educational institution funded wholly or in part by state revenue. In the analysis of a claimed section 552.114 exception, this office has generally applied the same analysis as that employed under the federal Family Educational Rights and Privacy Act of 1974 ("FERPA"), 20 U.S.C.

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<sup>1</sup>In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office. We also note that you have not submitted a list of the parents but instead offer other documents in your attempt to respond to the request. We note that the Open Records Act does not require a governmental body to prepare new information in response to a request. See, *Economic Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.--San Antonio 1978, writ dismissed).

§ 1232g. Open Records Decision No. 539 (1990). We agree with your position that section 552.026 does not require the release of information contained in education records of an educational agency or institution, except in conformity with FERPA. Additionally we note that "education records" under FERPA are records that

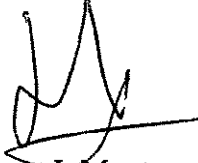
- (i) contain information directly related to a student; and
- (ii) are maintained by an educational agency or institution or by a person acting for such agency or institution.

20 U.S.C. § 1232g(a)(4)(A). *See also* Open Records Decision Nos. 462 (1987), 447 (1986). Information must be withheld under FERPA only to the extent "reasonable and necessary to avoid identifying a particular student." Open Records Decision Nos. 332 (1982), 206 (1978).

Furthermore, in Open Records Decision No. 634 (1995) this office concluded: (1) an educational agency or institution may withhold from public disclosure information that is protected by FERPA and excepted from required public disclosure by sections 552.026 and 552.101 without the necessity of requesting an attorney general decision as to those exceptions, and (2) an educational agency or institution that is state-funded may withhold from public disclosure information that is excepted from required public disclosure by section 552.114 as a "student record," insofar as the "student record" is protected by FERPA, without the necessity of requesting an attorney general decision as to that exception.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Janet I. Monteros  
Assistant Attorney General  
Open Records Division

JIM/rho

Ref.: ID# 33551

Enclosures: Submitted documents

cc: Donna Alexander  
Rt 1 Box 242-A  
Blue Ridge, Texas 75424  
(w/o enclosures)